

## Remarks

This amendment is being submitted in response to the final Office Action mailed by the Patent Office on May 10, 2006. This Response is submitted on July 10, 2006, which is within two-months of the issuance of the final Office Action. In the present Office Action, claims 1-5 of the above-referenced application are pending and claims 1-5 stand as rejected by the Patent Office. The Patent Office indicates on page 5 of the Office Action that the drawings filed on January 26, 2006 were accepted, that the amendments to claims 1-5 have been entered and the rejection of these claims under 35 U.S.C. § 112 vacated, and that the remarks concerning the rejection of claims 1-5 under 35 U.S.C. § 102(b) are moot in view of the new rejection of claims 1-5 under 35 U.S.C. § 103(a). For purposes of placing the claims in better condition for allowance and for clarifying and better defining the invention, claims 1-5 have been amended in the present Response; thus, Applicant respectfully requests reconsideration of the claims in light of the amendments and remarks made herein.

### 35 U.S.C. 103(a)

On page 2 of the Office Action of May 10, 2006, the Office states that claims 1-5 are rejected under 35 U.S.C. § 103(a) as being "anticipated by" Nakfoor (U.S. Patent No. 6,496,809) in view of Reference U (Ticketmaster). Given the 103(a) basis of the rejection (see the top of page 2 of the Office Action), the Applicant assumes that the Office intended to state that claims 1-5 are rejected under 35 U.S.C. § 103(a) as being "unpatentable over" Nakfoor in view of Reference U. Proceeding on this assumption, and regardless of the claim amendments presented herein, the Applicant respectfully traverses the rejection of claims 1-5 based on grounds of §103 obviousness.

MPEP 2142 provides that establishing a *prima facie* case of obviousness requires that the prior art references must teach or suggest all the claim limitations. The Applicant asserts that neither Nakfoor nor Reference U teach or suggest: *software means located on said server for allowing said customer to pre-register with said on-line transaction system by entering personal contact information and transactional information regarding desired transactions into said transaction system database, and wherein said software means prioritizes said personal contact information and transactional information against other customers based on*

**said pre-registration.** This claim limitation was added in the previous Response (see Response and Amendment of January 23, 2006), and has been further defined and clarified in the present Response by the inclusion of the phrase “against other customers” (see above). This newly added language refers to the “prioritization” function of the claimed system and is supported by the specification as originally filed (see, for example, paragraphs [0003] and [0015]). Neither of the references cited by the Patent Office teaches this claim limitation; thus, the invention as claimed is not obvious in view of these cited references.

The Applicant’s claimed invention is essentially an on-line system for executing Internet-based transactions based on customer pre-registration, data/information input, and prioritization of transaction execution based on the order (relative to other customers) in which a customer has pre-registered with the system. A customer, i.e., a user of the claimed system, enters personal information (for billing and delivery purposes) and information concerning a desired transaction (pre-selection). When the event, merchandise, or other desired item becomes available on-line, the claimed system immediately executes the desired transaction based on the relative priority of users who have pre-registered or registered with the system for the same pre-selected or selected items. Thus, the phrase “against other customers” has been included in the currently amended claims to emphasize this aspect of the claimed invention. Consistent with the Applicant’s previous assertions, the Nakfoor reference does not teach such prioritization and neither does the U Reference. The disclosure on Page 3 of the U Reference (cited by the Patent Office on page 3 of the Office Action) only mentions informing or notifying consumers of upcoming events based on the consumers’ past purchases. No mention of pre-registration, pre-selection, prioritization, and automatic transaction execution is made in the U Reference. Furthermore, the U Reference is a non-technical document that is simply a transcription of an interview that includes no enabling disclosure of any kind. The Federal Circuit has held that a prior art reference must describe and enable the claimed invention with sufficient clarity and detail to establish that the subject matter already existed in the prior art and that its existence was recognized by persons of ordinary skill in the art. See, for example, *In re Spada*, 911 F.2d 705 (Fed. Cir. 1990). Thus, the Applicant asserts that Reference U is non-enabling and does not teach nor suggest, either individually or in combination with Nakfoor, all the limitations of the claimed invention. Because the cited references do not teach nor suggest all of the claim limitations, and because reference U is a non-

technical, non-enabling reference, the claimed invention is not obvious in view of these references. The Applicant, therefore, respectfully requests that the Patent Office enter the current amendments and withdraw the rejection of claims 1-5 under 35 U.S.C. §103(a).

Additionally, as described in the specification as originally filed (see, for example, paragraph [0015]), the Applicant's system is not limited to the purchase of tickets for events, but may be used for any of a variety of on-line transactions including the purchase of tickets, registration for events, and the purchase of merchandise or other items; thus, the claims have been further amended in the present Response to be more consistent with this contemplated use. These amendments better define and further clarify the invention taught by the Applicant and do not significantly change or alter the subject matter of the claims. The Applicant, therefore, respectfully requests that the Patent Office also enter these amendments.

#### Conclusion

For the reasons set forth herein, this application is believed to be in condition for allowance as the claims are believed to define patentably over the cited art. Favorable reconsideration of this application is respectfully requested. If there is any fee due in connection with the filing of this Response, please charge the fee to our Deposit Account **No. 50-1059**.

Respectfully submitted,

Date: July 10, 2006

/Courtney J. Miller/  
Reg. No. 45,366  
(614) 621-7015 / (614) 621-0010 (fax)  
cmiller@calfee.com